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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,871	11/05/2003	Renfeng Guo	UM-08443	6716

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EXAMINER	
DEVI, SARVAMANGALA J N	

ART UNIT	PAPER NUMBER
1645	

DATE MAILED: 09/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/701,871	GUO ET AL.	
	Examiner	Art Unit	
	S. Devi, Ph.D.	1645	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05/07/04*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-28 and 30* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *1-28 and 30* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Restriction

1) Claim 29 has been canceled.

Claims 1-28 and 30 are under prosecution.

2) Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-8, drawn to a method of determining a prognosis comprising detecting the level of expression of C5aR on blood neutrophils, classified in class 436, subclass 546.

II. Claims 9-19, drawn to a method of screening compounds comprising providing one or more test compounds and a neutrophil, classified in class 435, subclass 7.24

III. Claims 20-25, drawn to a kit comprising an antibody reagent for determining the level of C5aR expression on a neutrophil and instructions, class 435, subclass 975.

IV. Claims 26-28 and 30, drawn to a method of treating sepsis comprising providing a reagent capable of blocking a C5a receptor and administering said regent to a septic patient, classified in class 514, subclass 921.

3) Inventions I through IV are distinct from one another. Inventions I, II and IV are drawn to distinct methods, which differ from one another in the product or reagent used therein, method steps and parameters, method objectives, and ultimate goals used. The products used therein are divergent with regard to their structure and/or function, each requiring separate and non-coextensive searches. The method of screening compounds is unrelated to the method of determining a prognosis or a method of treating sepsis as indicated by the divergent classes. Therefore, searching the above-identified inventions together would not be coextensive and thus impose a serious search burden.

4) Inventions III and I are related as product and process of using the product. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process of using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (M.P.E.P 806.05(h)). In the instant case, the antibody reagent of invention III can be used in a materially different process,

for example, as sources of immunogen to raise anti-idiotypic antibodies.

5) Searching the inventions I, II and III together would impose a serious search burden. These inventions have a separate status in the art as shown by their different classifications. The search for inventions I, II and III would require a text search for the claimed methods in addition to a search for the products used therein. Moreover, even if the antibody product of invention III were known, the method, which uses the product, may be novel and unobvious in view of the preamble or active steps.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification/subclassification and divergent subject matter, and since a search performed for one would not be co-extensive for the other, restriction for examination purposes as indicated is proper.

6) Should Applicants traverse on the ground that the species are not patentably distinct, Applicants should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the Examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

7) The Office has required restriction between product and process claims. Where Applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be rejoined. All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

8) In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. § 101, 102, 103, and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not

commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, Applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. *Failure to do so may result in a loss of the right to rejoinder.* Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

9) Applicants are advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed. 37 CFR 1.143.

10) Applicants are reminded that upon cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under C.F.R 1.48(b) and by the fee required under 37 C.F.R 1.17(h).

11) Papers related to this application may be submitted to Group 1600, AU 1645 by facsimile transmission. Papers should be transmitted via the PTO Central Fax number, (571) 273-8300, which receives transmissions 24 hours a day and 7 days a week.

12) Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAG or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.Mov. Should you have questions on access to the Private PAA system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

13) Any inquiry concerning this communication or earlier communications from the Examiner should be directed to S. Devi, Ph.D., whose telephone number is (571) 272-0854. A message may be left on the Examiner's voice mail system. The Examiner can normally be reached on Monday to Friday from 7.15 a.m. to 4.15 p.m. except one day each bi-week, which would be disclosed on the Examiner's voice mail system.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Acting Supervisor, Albert Navarro, can be reached on (571) 272-0861.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-1600.

September, 2006

S. DEVI, PH.D.
PRIMARY EXAMINER